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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/505,172	08/31/2004	Kenichi Nakatsu	P25834	6690

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RESTON, VA 20191

EXAMINER

REYNOLDS, STEVEN ALAN

ART UNIT	PAPER NUMBER
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3728

NOTIFICATION DATE	DELIVERY MODE
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08/09/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com
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Office Action Summary

Application No.

10/505,172

Applicant(s)

NAKATSU ET AL.

Examiner

Steven Reynolds

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 16-27 and 29-32 is/are rejected.
- 7) ☒ Claim(s) 15 and 28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to the reply filed on 7/17/2007, wherein claims 1-15 and 19-28 were amended; claims 29-32 were added. Claims 1-32 are pending.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 15 and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "the article" is indefinite since clear antecedent basis is lacking for the element. Claims 15 and 28 include the element "the article", and claims 1 and 2 include "the articles". Proper correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

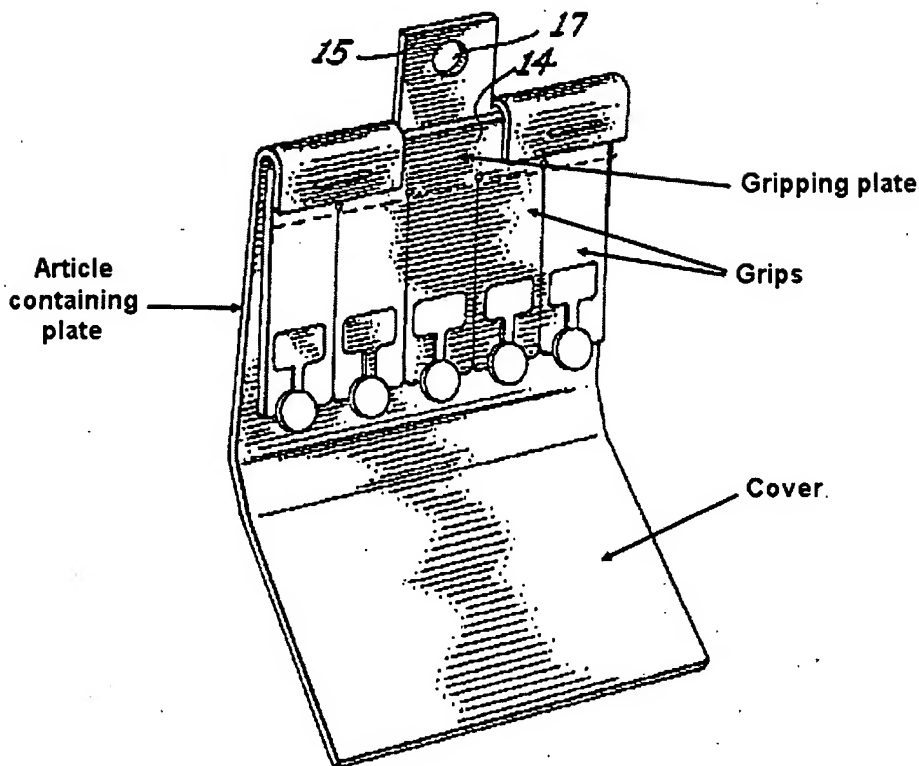
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
6. Claims 1-14, 16-27 and 29-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Casanova et al. (US 6,364,115) in view of Cerny et al. (US 4,860,890). Regarding claim 1, Casanova discloses an article packaging body comprising an article containing plate (34) having a plurality of recesses (52) configured to receive articles (batteries); a cover plate (36) connected to the article containing plate. Casanova discloses the claimed invention except for the gripping plate.

However, Cerny teaches a battery holder comprising a gripping plate (See figure below) hingedly attached to an article containing plate (See figure below), the gripping plate being provided with a plurality of grips (See figure below) configured to hold corresponding articles (batteries) at a distal end, the grips configured to be individually separable from each other for the purpose of protecting the articles and allowing a single grip to be separated to ease the installation of the battery into a hearing aid. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the edge of the article containing plate (edge opposite the cover plate) of Casanova with a gripping plate including grips and articles (batteries) hingedly attached thereto as taught by Cerny in order to retain small size batteries in such a way that they are easily removable from the package.



Regarding claim 2 and 32, Casanova-Cerny as described above discloses the claimed invention except for the cover plate having a gripping plate extending from it. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the cover plate (which comprises recesses 46) with a gripping plate hingedly attached to it (to the edge opposite the article containing plate), in order to hold more articles, since such a modification would amount to a mere duplication of parts. It has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bernis Co.*, 193 USPQ 8. The gripping plates configured to be folded by folding lines onto the corresponding article containing plate and corresponding cover plate such that the articles are received in

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corresponding recesses; the gripping plates being positioned between the cover plate and the article containing plate.

Regarding claims 3 and 16, Casanova-Cerny discloses the article packaging body comprises a sheet of hard material (plastic is considered a hard material).

Regarding claims 4, 5, 17 and 18, Casanova-Cerny discloses the claimed invention except for the specific material that the article packaging body is made from. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the device from any material such as a synthetic resin or biodegradable plastic in order to have the desired strength against damage. It has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Regarding claims 6 and 19, Casanova-Cerny discloses a planar hinge (Casanova 40) having fold lines (line on either side of the planar hinge), the hinge connecting the article containing plate to the cover plate, and the article containing plate configured to be folded onto the cover plate via the folding lines.

Regarding claims 7 and 20, Casanova-Cerny discloses the claimed invention except for the specifics of the planar hinge. Applicant has not challenged the Official Notice taken that it is well known in the art to substitute a folding line with perforated lines in order to allow for easier folding, and to space apart each perforation a desired distance to make it easier or harder to bend at the perforated line. Therefore, it is considered obvious to one of ordinary skill in the art to substitute a folding line as

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disclosed by Casanova-Cerny with perforated lines in order to allow for easier folding and to space apart each perforation a desired distance to make it easier or harder to bend at the perforated line.

Regarding claims 8 and 21, Casanova-Cerny discloses the article containing plate and the cover plate are provided with reinforcing concave (Casanova 44) and convex (Casanova 54) portions, respectively.

Regarding claims 9 and 22, Casanova-Cerny discloses the claimed invention except for the specifics of the grips. Applicant has not challenged the Official Notice taken that it is well known in the art to provide reinforcement to a structure to make it more rigid. Therefore, it is considered obvious to one of ordinary skill in the art to provide reinforcement to the grips of Casanova-Cerny in order to make the structure more rigid.

Regarding claims 10 and 23, Casanova-Cerny discloses the claimed invention except for the specifics of the shape of the separation lines between the gripping pieces. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47. A Change in aesthetic (ornamental) design generally will not support patentability. *In re Seid*, 73 USPQ 431.

Regarding claims 11, 12, 24 and 25, Casanova-Cerny discloses an engagement having a rectangular engagement recess (Casanova 58) on the article containing plate, and a circular projection (Casanova 48) on the cover plate, wherein the projection is

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configured to be received in the engagement recess such that the article containing plate and cover plate engage each other.

Regarding claims 13 and 26, Casanova-Cerny discloses an aperture (Casanova 18) provided at an edge of the article packaging body, the aperture being configured to hang the article packaging body on a hanging display.

Regarding claims 14 and 27, Casanova-Cerny discloses the article comprises a button-cell battery.

Regarding claims 29 and 30, Casanova-Cerny discloses the grips have seals (26/28), which include fold-back portions (28 – can be considered a fold-back portion as is can be folded back), each seal covering a corresponding recess (34).

Regarding claim 31, Casanova-Cerny discloses the gripping plate being positioned between the cover plate and the article containing plate.

Allowable Subject Matter

7. Claims 15 and 28 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments with respect to claims 1 and 2 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Reynolds whose telephone number is (571)272-9959. The examiner can normally be reached on Monday-Friday 9:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571)272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SR

8/6/07


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